

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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Case No. 2:23-cv-00832-JCM-EJY

**ORDER**

BOARD OF TRUSTEES OF THE  
CONSTRUCTION INDUSTRY AND  
LABORERS HEALTH AND WELFARE  
TRUST; THE BOARD OF TRUSTEES  
OF THE CONSTRUCTION INDUSTRY  
AND LABORERS JOINT PENSION  
TRUST; THE BOARD OF TRUSTEES  
OF THE CONSTRUCTION INDUSTRY  
AND LABORERS VACATION TRUST;  
and THE BOARD OF TRUSTEES OF  
THE SOUTHERN NEVADA  
LABORERS LOCAL 872 TRAINING  
TRUST,

Plaintiffs,

v.

SANTOS ENTERPRISES, LLC, a Nevada  
corporation,

Defendant.

Pending before the Court is Plaintiffs' Motion for Leave to Amend Complaint. ECF No. 9. Plaintiffs seek to amend their Complaint to fix a scrivener's error in Defendant's name. Defendant is presently sued as "Santos Enterprises, LLC" while Defendant's correct legal name is "Santos Enterprise, LLC." Defendant, with whom Plaintiffs have been in touch, is arguing, despite what appears to be effective service, that because the entity sued is not properly named, Defendant will not recognize the lawsuit.

Under Federal Rule of Civil Procedure 15(a), the Court "should freely give leave [to amend] when justice so requires. Fed. R. Civ. P. 15(a)(2). Absent prejudice, or a "strong showing" of the other factors, such as undue delay, bad faith, or dilatory motive, "there exists a presumption under Rule 15(a) in favor of granting leave to amend." *Eminence Capital, LLC v. Aspeon, Inc.*, 316 F.3d 1048, 1052 (9th Cir. 2003) (per curiam). "Amendments are to be permitted liberally because, as the Supreme Court observed many years ago, if the underlying facts or circumstances relied upon by a plaintiff may be a proper subject of relief, he ought to be afforded an opportunity to test his claim on

1 the merits.” *AmerisourceBergen Corp. v. Dialysist W., Inc.*, 465 F.3d 946, 957 (9th Cir. 2006)  
2 (quoting *Foman v. Davis*, 371 U.S. 178, 182 (1962)) (internal alterations and quotation marks  
3 omitted). Applicable here, courts routinely permit amendment to complaints to cure scrivener’s  
4 errors contained within the complaint. *Sumitomo Realty & Dev. Co. v. Tekuro Kamada Proctor*,  
5 Case No. 2:19-cv-01899-GMN-VCF, 2020 WL 5764465, at \*2 (D. Nev. Sept. 28, 2020) (granting  
6 leave to amend to correct scrivener’s error); *Microsoft Corp. v. Chatterjee*, Case No. C20-1800-JCC,  
7 2021 WL 3288095, at \*1 (W.D. Wash. Aug. 2, 2021) (same).

8 Here, the evidence supports that no prejudice arises from the proposed amendment as  
9 Defendant, who is aware of the litigation, has not participated in this case because it is not technically  
10 correctly named. The Court further finds there is no evidence of undue delay, bad faith, or a dilatory  
11 motive.

12 Accordingly, IT IS HEREBY ORDERED that Plaintiffs’ Motion for Leave to Amend  
13 Complaint (ECF No. 9) is GRANTED.

14 Dated this 24th day of April, 2024.

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17 ELAYNA J. YOUCHAH  
18 UNITED STATES MAGISTRATE JUDGE  
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